

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HECTOR SANCHEZ LEYVA,

Petitioner,

No. CIV S-05-0031 FCD GGH P

vs.

DERRAL ADAMS,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On August 15, 2006, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

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1. The findings and recommendations filed August 15, 2006, are adopted in full;

and

2. Respondent's November 3, 2005, motion to dismiss:

a. Is denied on the ground of untimeliness as moot;

b. Is granted on the ground that this court lacks subject matter jurisdiction

as regards a successive petition; and

c. This successive petition is dismissed.

DATED: September 13, 2006

/s/ Frank C. Damrell Jr.
FRANK C. DAMRELL JR.
United States District Judge